

Internal Revenue Service
District Director

Department of the Treasury
P.O. Box 2508
Cincinnati, OH 45201

Person to Contact:

Telephone Number

Refer Reply to:
EP/EO

Employer Identification Number:

Date: JUN 19 1996

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax under the provisions of section 501(c)(3) of the Internal Revenue Code of 1986 and its applicable Income Tax Regulations. Based on the available information, we have determined that you do not qualify for the reasons set forth on Enclosure I.

Consideration was given to whether you qualify for exemption under other subsections of section 501(c) of the Code and we have concluded that you do not.

As your organization has not established exemption from Federal income tax, it will be necessary for you to file an annual income tax return on Form 1041 if you are a trust or Form 1120 if you are a corporation or an unincorporated association. Contributions to you are not deductible under section 170 of the Code.

If you are in agreement with our proposed denial, please sign and return one copy of the enclosed Form 6018, Consent to Proposed Adverse Action.

You have the right to protest this proposed determination if you believe that it is incorrect. To protest, you should submit a written appeal giving the facts, law and other information to support your position as explained in the enclosed Publication 892, "Exempt Organizations Appeal Procedures for Unagreed Issues". The appeal must be submitted within 30 days from the date of this letter and must be signed by one of your principal officers. You may request a hearing with a member of the Office of the Regional Director of Appeals when you file your appeal. If a hearing is requested, you will be contacted to arrange a date for it. The hearing may be held at the Regional Office, or, if you request, at any mutually convenient District Office. If you are to be represented by someone who is not one of your principal officers, he or she must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements as set forth in Section 601.502 of the Statement of Procedural Rules. See Treasury Department Circular No. 230.

12/1/95 11/16/95 12/13/95 11/10/96 11/16/96

[REDACTED]

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 6104(b)(2) of the Internal Revenue code provides in part that:

A declaratory judgement or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

If we do not hear from you within the time specified, this will become our final determination. In that event, appropriate State officials will be notified of this action in accordance with the provisions of section 6104(c) of the Code.

Sincerely yours,

[REDACTED]

District Director

Enclosures: 3

ENCLOSURE I

[REDACTED]

The information submitted reveals that the organization was incorporated in the state of [REDACTED] on [REDACTED]. Form 1023, Application for Recognition of Exemption under Section 501(c)(3) was filed on [REDACTED].

The Articles of Incorporation provide that the purpose of the organization is to provide Christian radio and other ministries and support to believers around the world.

The application, Form 1023, provides that the principal activity of the organization will be the broadcasting of Christian programming, such as music, talk shows, preaching, etc. The purpose of this activity is to strengthen and support Christian believers, to spread the Gospel of Jesus Christ, and to support Christian works around the world.

Information provided in response to our request for additional information indicates that all programming services will be provided by [REDACTED], a for-profit company which is partly owned by [REDACTED], an officer of your organization. The organization will lease the facilities to [REDACTED].

Further information provided in response to our request reveals that [REDACTED] percent of the programming will be paid commercial programs and approximately [REDACTED] percent will be commercials.

The organization's income will be derived from donations, paid programming and advertising. The expenses will include fundraising, wages, interest, utilities, insurance, property taxes, telephone and legal.

Section 501(c)(3) of the Internal Revenue Code provides for the exemption from Federal income tax of corporations, and any community chest, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary or educational purposes, or to foster national or international amateur sports competition or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation, and which does not participate in, or intervene in, any political campaign on behalf of any candidate for public office.

ENCLOSURE 1 CONTINUED

Section 1.501(c)(3)-1(a)(1) of the Regulations states that in order to qualify under section 501(c)(3) of the Code, an organization must be both organized and operated exclusively for one or more exempt purposes. If an organization fails to meet either the organizational or operational test, it is not exempt.

Section 1.501(c)(3)-1(a)(2) of the Regulations states that the term "exempt purpose or purposes", means any purpose or purposes specified in section 501(c)(3) of the Code.

Section 1.501(c)(3)-1(c)(1) of the Regulations states that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3) of the Code. An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(d)(1)(ii) of the Regulations states that an organization is not operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest. It must not be operated for the benefit of designated individuals or the persons who created it.

In Murray Seasongood v. Commissioner, 227 F.2d 907 (6th Cir. 1955), the court held that an activity which constituted 5 percent of total activities was insubstantial.

Revenue Ruling 68-563, 1968-2 C. B 212, provides exemption under section 501(c)(3) to a nonprofit religious broadcasting station whose time was devoted to worship services and other programs having religious content. Although the station was operated on a commercial license, it did not sell commercial or advertising time.

In Revenue Ruling 78-385, 1978-2 C.B. 385, an organization was held to be exempt under section 501(c)(3) of the Code even though an insubstantial amount of broadcast time was devoted to commercially sponsored programs.

In light of the above facts and cited precedents, we have determined that your organization does not meet the operational test for exemption under section 501(c)(3) of the Code. The activity which is conducted by your organization of leasing the station to a for-profit company does not fall within the meaning of section 501(c)(3) of the Code.

In addition, you do not qualify because the commercial and advertising time sold by the organization is more than insubstantial. You differ from the organization described in Revenue Ruling 68-563 because that organization sold no commercial or advertising time.

ENCLOSURE 1 CONTINUED

[REDACTED]

... also differ from the organization described in Revenue Ruling 78-385 because even though part of [REDACTED] programming was commercially sponsored, it was insubstantial. Murray Seasongood v. Commissioner defines insubstantial as 5 percent. The commercial programs and commercials sold by your organization will constitute [REDACTED] to [REDACTED] percent of your total programming. This is more than insubstantial.

Therefore, based upon all facts presented, we have determined that your organization does not qualify for exemption under section 501(c)(3) of the Code.